



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of calendar year 2023 random drug and alcohol testing rates.

SUMMARY: This notice announces the calendar year 2023 drug and alcohol random testing rates for specific recipients of FTA financial assistance. The minimum random drug testing rate will remain at 50 percent, and the random alcohol testing rate will remain at 10 percent.

DATES: Applicable Date: January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Iyon Rosario, Drug and Alcohol Program Manager in the Office of Transit Safety and Oversight, 1200 New Jersey Avenue, SE, Washington, DC 20590 (telephone: 202-366-2010 or e-mail: Iyon.Rosario@dot.gov).

SUPPLEMENTARY INFORMATION: On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing of employees performing safety-sensitive functions, and to submit annual reports by March 15 of each year beginning in 1996, pursuant to drug and alcohol regulations adopted by FTA at 49 CFR parts 653 and 654 in February 1994. The annual report includes the number of employees who had a verified positive test for the use of prohibited drugs, and the number of employees who tested positive for the misuse of alcohol during the reported year. Small employers commenced the required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997.

FTA updated the testing rules by merging them into a new 49 CFR part 655, effective August 1, 2001 (66 FR 42002). The regulation maintained a random testing rate for prohibited drugs at 50 percent and the misuse of alcohol at 10 percent. The Administrator may lower the random testing rate to 25 percent if the violation rates drop below 1.0 percent for drug testing

and 0.5 percent for alcohol testing for two consecutive years. Accordingly, in 2007, FTA reduced the random drug testing rate from 50 percent to 25 percent (72 FR 1057). In 2018, however, FTA returned the random drug testing rate to 50 percent for calendar year 2019 based on verified industry data for calendar year 2017, which showed that the rate had exceeded 1 percent (83 FR 63812).

Pursuant to 49 CFR 655.45, the Administrator's decision to determine the minimum annual percentage rate for random drug and alcohol testing is based, in part, on the reported positive drug and alcohol violation rates for the entire public transportation industry. The information used for this determination is drawn from the Drug and Alcohol Management Information System (MIS) reports required by 49 CFR 655.72. To ensure the reliability of the data, the Administrator must consider the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry's verified positive results and violation rates.

For calendar year 2023, the Administrator has determined that the minimum random drug testing rate for covered employees will remain at 50 percent based on a verified positive rate for prohibited drug use of 0.99 percent for calendar year 2021 and 1.08 percent for calendar year 2020. Further, the Administrator has determined that the minimum random alcohol testing rate for calendar year 2023 will remain at 10 percent, because the violation rate again was lower than 0.5 percent for calendar years 2020 and 2021. The random alcohol violation rates were 0.17 percent for 2020 and 0.13 for 2021.

Detailed reports on FTA's drug and alcohol testing data collected from transit employers may be obtained from FTA, Office of Transit Safety and Oversight, 1200 New Jersey Avenue, SE, Washington, D.C., 20590, (202) 366–2010, or at: <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Publications/Default.aspx>.

Nuria I. Fernandez,

Administrator.

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